EXAMINER INTERVIEW SUMMARY RECORD

The Applicants wish to thank Examiner Shin for her time and feedback during the interview conducted on October 8, 2008. Proposed claim amendments were discussed in order to further clarify that, unlike the McLaughlin reference, the subject matter of the present Application computes latency during the user data session. Examiner indicated that, subject to filing an RCE and further analysis, such amendments may be looked upon favorably.

REMARKS/ARGUMENTS

Claims 1-14, 16-26, 29-40, and 42-49 are pending in this application. Of the pending claims, claims 1, 16, 26, 40, and 45 are independent claims. In this amendment, claims 5, 16-25, 32, 40, 42-44, and 45-49 have been cancelled. Claims 1, 3, 4, 7, 26, 30, 31, and 34 have been amended herein. Dependent claims 50-60 have been added, which include the subject matter of claim sets represented by cancelled independent claims 16, 40, and 45. No new matter has been introduced into the claims by way of these amendments.

Claims 1, 4-8, 10, 11, 26, 31-35, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xanthos et al. (US 6,928,280) in view of Zappala et al. (US 2002/0127993) and in further view of McLaughlin (US Patent No. 7,290,056). Claims 16-20, 22, 29, 30, 40, 42, 43, 45, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over a combination of Xanthos and McLaughlin and in further view of Dyck et al. (2004/0260831). Claims 2, 3, 9, 12-14, 21, 23-25, 36, 38, 39, 44, 46, 47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over a combination of Xanthos, Zapalla, and McLaughlin and in further view of Dyck. Thus, the rejection of all claims depends upon applicability of the new reference, McLaughlin, to the independent claims. To this end, it is respectfully submitted that McLaughlin fails to teach or suggest *calculation of latency during the user data session* for which it was cited and which is recited in all claims.

The Examiner is respectfully referred to the previous response for a detailed discussion of Xanthos, Zappala, and Dyck references. The Applicants note that the Office Action is in agreement that the combination of Xanthos, Zappala, and Dyck is missing any disclosure of calculation of latency during the data session, as recited by all claims. *See* Office Action, pages 4, 8, 11. Hence, the Office Action relies on McLaughlin to provide this missing requirement. *See id.*

Independent Claims 1 and 26

McLaughlin describes a distributed web client - server system that adjusts a transaction time out parameter based on latency of the transaction. *See* McLaughlin, Abstract, col. 16, ll. 4-

6. While the Office Action points to a section in McLaughlin (col. 13, ll. 20-25) which generally states that latency is used to adjust the time out parameter, a more detailed analysis of McLaughlin reveals that the **latency is calculated after each transaction ends**. *See* McLaughlin, col. 58, ll. 61-65. Specifically, McLaughlin states that as part of calculating latency (referred to as the "transaction quantum"), "distributed artificial intelligence (DAI) agents" monitor the time interval between writes to a transaction cookie, which provides the remote device processing time." McLaughlin, col. 58, ll. 15-27. The transaction processing time is derived by monitoring "the local directory where cookies are stored and read[ing] the name and value pair for the **transaction begin and end time stamps**," which are converted to a numerical value in seconds. McLaughlin, col 58, ll. 61-65 (emphasis added). Hence, the data session of McLaughlin must end before latency is calculated based on the "transaction end" time stamp. By contrast, independent claims 1 and 26, as amended, both compute latency by "computing, *during the user data session*, an elapsed time from transmission of said message to receipt of said response message." Therefore, McLaughlin fails to teach or suggest *calculation of latency during the user data session*, which is recited in independent claims 1 and 26.

Additionally, the Applicants note that, unlike McLaughlin, which deals with web clients and servers, independent claims 1 and 26 as amended pertain to messaging in a "mobile telephone network." *See* Application, page 1.

Furthermore, claims 1 and 26, as amended, recite additional features not disclosed or suggested in either Xanthos, Zapalla, Dyck, or McLaughlin. Specifically, claims 1 and 26 clarify that the latency is recorded in "an accounting parameter field" added to a "usage data record" for the data session, where such accounting parameter field "extends the communication specification" of the messaging. *See* Application, page 7, pars. [0023] – [0024].

For the foregoing reasons, the Applicants believe that independent claims 1 and 26 are not obvious over Xanthos in view of Zappala and in further view of McLaughlin.

Dependent claims 2-4, 6-14, 29-31, 33-39, and 50-60

Dependent claims 2-4, 6-14, 29-31, 33-39, and 50-60 contain all of the limitations of their parent independent claims 1 and 26 and, therefore, are patentable for at least the same reasons.

Additionally, the Office Action rejects dependent claim 3 based on Xanthos, Zapalla, and McLaughlin and in further view of Dyck. The Office Action relies on Dyck to supply the feature of claim 3 where the message and response message do not affect a session data usage. Office Action, page 21. However, the messaging of Dyck occurs in the context of an "unloaded" network. *See* Dyck, Abstract, Figure 4. Therefore, Dyck is not applicable for and does not teach or suggest messaging occurring during a user data session (or during a loaded network), which is recited in claim 1 from which claim 3 depends. Thus, Dyck can not supply the missing feature of: "wherein said message and said response message do not affect the data usage of said first device."

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

Dimitry Kapmar, Reg. No. 62,998
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6731
(312) 616-5600 (telephone)
Date: November 10, 2008   (312) 616-5700 (facsimile)